

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

PATRICK BAILEY,)	
)	
Plaintiff,)	
)	
vs.)	Case No.: 2:05-cv-1061-MEF-DRB
)	UNOPPOSED
MILTOPE CORPORATION,)	
)	
Defendant.)	

DEFENDANT'S MOTION FOR BRIEF EXTENSION

Defendant Miltope Corporation respectfully requests that this Court extend the dispositive motion deadline by one week and in support thereof states:

1. This Court entered a scheduling order on January 10, 2006. The Court's order requires discovery to be completed in this case by December 20, 2006. Dispositive motions are due October 5, 2006. This cause is set for trial during the term of court commencing on January 29, 2007.

2. The undersigned defense counsel became responsible for this matter in July 2006 upon the departure of Jennifer F. Swain from Johnston Barton Proctor & Powell. The deposition of Patrick Bailey could not be set until September 8, 2006 because of competing obligations in other matters. The deposition ended prematurely that date because of an unexpected emergency requiring the attention

of plaintiff's counsel. The deposition will be completed on September 29, 2006, the first available date based on the schedules of the lawyers.

3. The undersigned is unable to make a judgment as to all of the available arguments for a summary judgment motion until the completion of the plaintiff's testimony. As evidence has become available, the undersigned has made every effort to research for and prepare a summary judgment brief with supporting evidence and evidentiary citations.

4. The undersigned acknowledges that prior to her becoming responsible for this matter, more could have been accomplished in the way of discovery; however, because the undersigned is experiencing significantly difficult personal circumstances, a brief extension up to and including October 12, 2006 is appropriate. Specifically, the undersigned recently petitioned for divorce in the circuit court of Jefferson County. *See Lindsay v. Gampher*, DR 06-2342-JGP. There are two children under five born of the marriage. Throughout the month of September, the undersigned has been in the process of negotiating a custody arrangement and division of property and debt with her spouse. On September 30, 2006, the undersigned's spouse is scheduled to move out of the marital home and into his new residence. As a result of the breakdown of the marriage, the undersigned has, in spite of taking prescribed medication, experienced elevated blood pressure that has caused the undersigned to experience fatigue, anxiety, and

headaches. The undersigned has consequently been prescribed an elevated dosage of that medication by Dr. Brenda Taylor of Henderson & Walton, St. Vincent's Hospital, Birmingham, Alabama.

5. The timing of these emotional and physical difficulties is such that completion of the necessary research and writing for the summary judgment brief will impose a hardship on the undersigned. Because the undersigned has been intimately involved in the investigation, discovery, and research to date, it would not be feasible for another lawyer within Johnston Barton to take primary responsibility for completing the brief by the current deadline.

WHEREFORE, the defendant respectfully requests that the Court enter an order extending the dispositive motion deadlines up to and including October 12, 2006.

Dated the 28th day of September, 2006.

s/ Heather F. Lindsay

Heather F. Lindsay (ASB-0629-D64H)

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One of the Attorneys for Defendant

Miltope Corporation

CERTIFICATE OF SERVICE

I hereby certify that on September 28, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Derrick Blythe, Esq.
126 Marshall Street
Alexander City, AL 35010

I hereby certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants:

None

s/ Heather F. Lindsay

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